

2005 NOV 29 PM 2:15

U.S. DISTRICT COURT  
CLEVELAND

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MICHAEL ADAMS  
5528 Barclay Ct.  
Chino Hills, CA 91709,

and

REBECCA K. BOYER  
1629 Peony Road  
Lancaster, PA 17602,

and

SUMMER CARMICHAEL  
270 North Canon Drive #1990  
Beverly Hills, CA 90210.

and

JAMES F. COLGROVE  
74 Pittsburgh Hill Road  
Conestoga, PA 17516

and

JON COOPER  
131 Prospect Street  
Lancaster, PA 17603,

and

DANIEL L. EMMERT  
203 Tennyson Drive  
Lancaster, PA 17602,

CASE NO.

**1:05CV2750**

JUDGE:

**JUDGE BOYKO**

COMPLAINT BY EMPLOYEES  
UNDER FAIR LABOR  
STANDARDS ACT TO  
RECOVER UNPAID AND  
UNDERPAID OVERTIME  
WAGES

JURY DEMAND  
ENDORSED HEREON

and )  
)  
C. EDWIN FLORY )  
136 Elizabeth Harrison Lane )  
Williamsburg, VA 23185-7926, )  
)  
and )  
)  
JEFFREY DWIGHT FULBRIGHT )  
3835 Thornhill Drive. SW )  
Lilburn, GA 30047, )  
)  
and )  
)  
CHARLES GEORGE )  
114 Keener Road )  
Lititz, PA 17543, )  
)  
and )  
)  
FREDDIE B. HALL )  
6920 S. Indiana Street )  
Chicago, IL 60637, )  
)  
and )  
)  
DUDLEY LANE HAMMOND )  
2156 N. Damen Avenue )  
Chicago, IL 60647. )  
)  
and )  
)  
KATRINA M. HERBST )  
86-03 120<sup>TH</sup> Street )  
Richmond Hill, NY 11418. )  
)  
and )  
)  
ISRAEL C. HERRERA )  
6768 Gilbert Place )  
Alta Loma, CA 91701, )  
)  
and )  
)  
)  
)  
)

MELISSA HERRIN  
809 Ridgelake Drive  
Metairie, LA 70001-4254.

and

DWAIN E. JACKSON  
6922 Knowlton Place – Unit 303  
Westchester, CA 90045,

and

JAMES A. KANUCH, SR.  
107 Nyetimber Parkway  
Coraopolis, PA 15108-3147,

and

THOMAS S. KUZMA  
1537 Lampeter Road  
Lancaster, PA 17602-1734,

and

KENNETH LOWE  
236 Greenview Drive  
Lancaster, PA 17603,

and

MICHAEL W. MCGINNIS  
2285 Iron Bridge Road  
Columbia, PA 17512-8925,

and

DIANE M. MILLER  
28 Court Street, Unit 1  
Mansfield, MA 02048,

and

EDDIE MIRANDA  
546 Medford Drive  
South Elgin, IL 60177.

and

CLAYTON T. MORRIS  
2539 Chesterbrooke Drive  
Lithia Springs, GA 30122.

and

DWIGHT E. MOWRER  
405 Stackstown Road  
Marietta, PA 17547

and

BRYAN MUSSER  
1006 Northfield Drive  
Elizabethtown, PA 17022.

and

STEVEN W. OLSEN  
6813 Red Maple Drive  
Charlotte, NC 28277,

and

DUANE PIEJKO  
16844 Creekside Avenue  
Tinley Park, IL 60477,

and

TERRY PONTANO  
1414 Vendome Avenue  
Laval, Quebec, Canada H7W-151

and

THOMAS W. RALSTON  
317 Fairview Drive  
Lititz, PA 17543,

and

JEFFREY CARL ROGERS  
265 Plantation Road  
Fayetteville, GA 30214,

and

GEORGE RAY ROOT JR.  
492 Willow Road  
Lancaster, PA 17601,

and

BARBARA SALDARINI  
1008 Sheila Drive  
Toms River, NJ 08753-3522.

and

STANLEY B. SNYDER, JR.  
2729 Spring Valley Road  
Lancaster, PA 17601,

and

LEONA J. SORENSEN  
9024 S. Knox  
Hometown, IL 60456,

and

BRIAN G. STALLARD  
32582 Captains Galley  
Avon Lake, OH 44012-2104,

and

CHAD J. VARGO  
3315 Rillet Ct.  
Charlotte, NC 28269,

and

ALBERT W. WHIPKEY  
24617 E. Oakland  
Bay Village, OH 44140,

and

ROBERT W. WINSLOW  
211 Timberwood Drive  
Auburn, AL 36830

and

CRAIG ZINK  
316 Holly Lane  
Lancaster, PA 17602,

Plaintiffs,

vs.

R. R. DONNELLEY & SONS COMPANY  
77 West Wacker Drive  
Chicago, IL 60601.

Defendant.

### **INTRODUCTORY STATEMENT**

1. This is an Action for damages sustained by certain citizens of the United States of America as a result of the acts and omissions of the Defendant.

2. The acts and omissions complained of are all violations of property rights of these citizens, which property rights are protected by statutes of the United States of America and the laws of the States of California, Georgia, Illinois, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, and Virginia.

### **PARTIES**

3. Plaintiffs reside at the addresses set forth in the caption and either are current or past employees of R. R. Donnelley Financial, a business unit of R. R. Donnelley & Sons Company, a corporation organized and existing under the laws of the State of Delaware and having its principal executive offices located at 77 West Wacker Drive, Chicago, Illinois 60601 (hereinafter "Defendant"). Plaintiffs are or were employed as Customer Service Associates, Customer Service Representatives, or Senior Customer Service Representatives during some portion of the period beginning December 1, 2002 and ending November 30, 2005 and were employed at one or more of the following types of facilities operated by the Defendant: (1) manufacturing facilities; (2) fulfillment units; (3) print-bind centers; and (4) customer service centers.

4. Defendant corporation provides communications services including premedia, digital photography, content management, printing, Internet consulting and logistics. For calendar year 2004, Defendant reported Total Revenue of \$7.2 billion, Operating Income of

\$459.2 million, and Net Income from Continuing Operations in the amount of \$264.9 million. The Defendant employs approximately 33,000 people and services customers in North America, South America, Europe, and the Asia/Pacific Basin. In Ohio, Defendant employs approximately 1,550 persons with client service offices in Cleveland, Columbus, Cincinnati and manufacturing plants in Newark, and Willard.

### **JURISDICTION**

5. Plaintiffs bring this action to recover unpaid overtime compensation under the provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 *et. seq.*). Jurisdiction under the Fair Labor Standards Act (hereinafter the “Act”) is conferred upon the Court by Section 216(b) of the Act.

### **VENUE**

6. Venue is proper under 28 U.S.C. Section 1391(b) and (c) because certain acts, events, and/or omissions giving rise to the claims of three of the Plaintiffs occurred within this Court’s judicial geographic district, namely Cleveland, Ohio, and Defendant corporation operates and maintains offices in various locations within Ohio and does business throughout the State of Ohio.

### **GENERAL FACTUAL ALLEGATIONS**

7. Upon information and belief, Plaintiffs all allege the following against the Defendant.

8. Plaintiffs were employed by Defendant as “Customer Service Associates”, “Customer Service Representatives”, and “Senior Customer Service Representatives” for part or



all of the period beginning October 1, 2002 and ending September 30, 2005 (the "Computation Period") and were classified by Defendant as "salaried exempt".

9. Defendant is a Delaware Corporation with its principal place of business in Chicago, Illinois, engages in interstate commerce by providing print and communication services, and employs approximately 1,550 persons in the State of Ohio at five or more geographic locations therein.

10. As "Customer Service Associates", "Customer Service Representatives", and "Senior Customer Service Representatives", Plaintiffs' primary duties were to assemble and produce documents for Defendant's clients. Thus, Defendant employed Plaintiffs for the production of goods for interstate commerce and/or Plaintiffs' labor was concerned with a process or occupation necessary to the production of goods for interstate commerce and As a result, Plaintiffs are non-exempt employees entitled to receive overtime compensation under the Act.

11. As an example of the common classification, treatment, and conditions of employment established by Defendant with regard to the majority of the within Plaintiffs, from the date of his hire in September of 1999 to February 12, 2001, Plaintiff Whipkey was paid overtime at a rate less than one and one half times his normal rate. For the period of February 13, 2001 through May 31, 2002, Plaintiff Whipkey received no overtime compensation for approximately 900 overtime hours worked during that period. A true, accurate, and authentic copy of Defendant's September 28, 1999 offer of employment to Plaintiff Whipkey is attached hereto as Exhibit A and expressly incorporated herein by reference. Exhibit A contains the provision for overtime compensation at a rate less than one and one half times Plaintiff Whipkey's normal compensation rate. A true, accurate, and authentic copy of Defendant's May

29, 2001 notification to Plaintiff Whipkey regarding the company's change of overtime compensation policy for employees classified as "salaried exempt" is attached hereto as Exhibit B and expressly incorporated herein by reference. For the period beginning September 1, 2002 and ending August 31, 2003, Plaintiff Whipkey received no overtime compensation for four hundred twenty nine and three quarters hours (439.75) and compensation at 1.25 times his normal rate for one hundred eighty and one half hours (180.5). At Plaintiff Whipkey's then existing compensation rate of \$28.31 per hour, Plaintiff Whipkey is owed \$18,249.33 for unpaid overtime hours and \$1,277.56 for underpaid overtime hours.

12. Most, if not all, of the other Plaintiffs herein received offers of employment and notification of the cessation of weekday overtime payment similar to those received by Plaintiff Albert Whipkey.

13. The acts and omissions of the Defendant set forth above constitute violations of Section 7 of the Act and as a result there are sums now due and owing from Defendant in amounts that are not as yet determined by the Plaintiffs and when said sums are ascertained. Plaintiffs will ask leave of the Court to amend the complaint in order to insert the respective damage amounts for each Plaintiff.

14. In order to institute and prosecute this action against the Defendant, Plaintiffs have of necessity employed the attorneys now appearing herein on their behalf. Plaintiffs will be required to expend reasonable attorneys' fees for said attorneys in the interest of this action and to expend other costs and expenditures necessarily incurred and have agreed to pay said attorneys for their services herein.

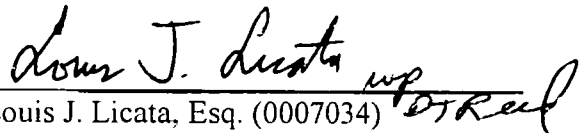
**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for the damages and other relief as set forth below.

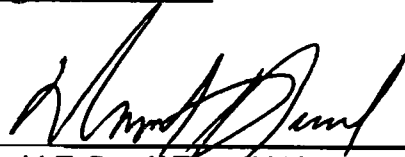
(1) Plaintiffs pray for judgment against Defendant in a sum according to proof, together with an equal sum as liquidated damages, together with interest thereon;

(2) Plaintiffs pray for judgment against Defendant for their reasonable attorneys' fees according to proof, costs of suit herein, and such further relief as shall be granted by this Honorable Court.

Respectfully submitted



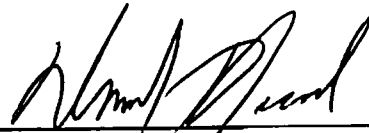
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Attorneys for Plaintiffs  
Michael Adams et al.

**JURY DEMAND**

Plaintiffs request that a jury hear all legal claims regarding these matters.

A handwritten signature in black ink, appearing to read "David T. Reed", is written over a horizontal line.

David T. Reed  
One of the Attorneys for Plaintiffs  
Michael Adams et al.